

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Provision of Directory Listing Information)	CC Docket No. 99-273
Under the Communications Act of 1934,)	
As Amended)	
)	
The Use of N11 Codes and Other Abbreviated)	CC Docket No. 92-105
Dialing Arrangements)	
)	
Administration of the North American)	CC Docket No. 92-237
Numbering Plan)	

**Comments of
Communications Workers of America**

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Summary

The Communications Workers of America (“CWA”) urges the Commission to reject Telegate’s proposal for presubscription of directory assistance (“DA”) services. Telegate is trying to fix a problem that does not exist. Consumers are not asking for presubscription to DA services. It is only Telegate—a German firm that discontinued its operations in the U.S. market in 2001 and has announced plans to sell its U.S. assets this year—that has asked the Commission to adopt this costly, cumbersome proposal. Telegate seeks to use the regulatory process rather than market forces to salvage its U.S. business.

CWA represents more than 14,000 directory assistance operators employed by the Bell operating companies and other incumbent local exchange carriers. CWA-represented DA operators comprise the overwhelming majority of the DA operator workforce at these companies. Through fifty years of collective bargaining, these operators have achieved the wages, benefits, and working conditions that support a well-trained career operator workforce. Consumers benefit from the high-quality service provided by these experienced career professionals, while these primarily female workers, their families, and their communities benefit from the middle-class living standards these jobs provide.¹

Telegate’s proposal is not in the public interest. It would result in higher prices for basic telephone service to recover the hundreds of millions of dollars it will cost incumbent carriers to

¹ Institute for Women’s Policy Research, “Women in Telecommunications: The Exception to the Rule of Low Pay for Women’s Work,” 1995. See also Rosemary Batt, Alex Colvin, Harry Katz, Jeffrey Keefe, Cornell-Rutgers Telecommunications Project, *Telecommunications 2000: Strategy, HR Practices & Performance*, 2001.

upgrade and re-program their switches and operating support systems and to expand their customer service operations to accommodate DA presubscription. Regulatory agencies and consumers will incur additional costs associated with consumer education, presubscription balloting, and enforcement action to protect against new cramming opportunities and ensure compliance with DA service standards. Alternative proposals, such as elimination of the 411 dialing code to allow DA dialing code parity among competing DA providers, would create consumer confusion and create a multitude of new problems, with no consumer benefit.

411-DA presubscription or, in the alternative, adoption of new DA dialing codes is not necessary to stimulate competition and innovation in an already highly competitive U.S. directory assistance market. Consumers can get telephone listings and other information from incumbent carriers, competitive local exchange carriers, long distance companies, wireless carriers, over the Internet, or from directory listings. As DA alternatives have proliferated, the incumbent Bell companies have lost DA market share, reporting a 50 percent reduction in 411 call volumes since 1996. As another indicator of declining Bell company market share, the number of CWA-represented operators employed by the Bell companies has declined by two-thirds since the mid-1990s. (CWA represents the overwhelming majority of DA operators at the Bell companies.) Even as Bell company DA call volumes have plummeted, competitive DA providers such as MetroOne, INFONXX, and Excell Agent Services report explosive growth in call volumes, revenues, and employment.

In this competitive DA market, U.S. carriers compete by offering a variety of DA services, including national DA, reverse DA, call completion, and bilingual services. Wireless carriers and

on-line providers, unconstrained by regulation, also offer movie listings and show times, restaurant listings and reviews, traffic reports and real time directions. Costly new regulations are not needed to provide consumer choice and new DA information services.

The Commission lacks the legal authority to mandate 411-DA presubscription. State commissions have jurisdiction over directory assistance, including pricing, quality of service, speed-of-answer, number of free DA calls per month, or, in the case of people with disabilities, free DA service. While the Telecommunications Act requires all telecommunications carriers to provide dialing code parity and non-discriminatory access to DA services to “providers of telephone exchange service and telephone toll service,” dedicated DA service providers, such as Telegate, fit neither of these categories. Nor is the 411 dialing arrangement “directory assistance.” Further, the Commission’s numbering authority does not authorize the Commission to require carriers to provide 411 access nor to regulate how they provide it.

Presubscription would likely exacerbate DA quality problems as carriers compete to reduce labor costs at the expense of quality service. Competitive DA providers are replacing the career professional model for operator services with a low-wage, part-time, high turnover human resource model. Consumers experience the difference in poor service, while thousands of good jobs, primarily held by women, disappear in communities across the United States.

Today, local, long distance, and wireless telecommunications carriers use DA services as one among a variety of service and pricing options to attract and retain customers. This competitive

model is working to drive competition in the local exchange and, simultaneously, innovation in DA services. There is no need to adopt costly and burdensome DA presubscription or alternative dialing codes.

I. 411 Directory Assistance Presubscription Is Not In The Public Interest

There is no consumer demand for 411 DA presubscription, or for other proposals to replace 411 with alternative DA dialing codes. In the year and one-half that the Commission has been considering Telegate's various proposals, no consumer groups have submitted comments in support of any of the proposals. The costs to consumers far outweigh any purported benefits.

A. Presubscription Would Increase The Cost Of Basic Telephone Service, With No Demonstrable Consumer Benefit

While the incumbent local exchange carriers will doubtless provide the Commission with updated cost estimates in this comment cycle, their earlier comments to the Commission indicate that 411 presubscription would require expensive technical upgrades, modifications in numerous operating support systems, and expansion of customer service operations to handle presubscription inquiries and requests. Third-party verification, if required, would impose additional costs. In earlier comments, Bell Atlantic (now Verizon) estimated that OSS costs alone would run at least \$20 to \$25 million. GTE (now also Verizon) estimated major costs at over \$310 million, with an additional \$40 million necessary to deploy full AIN capabilities. US West (now Qwest) estimated \$20.8 million in up-front costs, with \$1.2 million in annual recurring costs.²

² In the Matter of Provision of Directory Listing Information Under the Communications Act of 1934, As Amended; The Use of N11 Codes and Other Abbreviated Dialing Arrangements; Administration of the North American Numbering Plan, *Notice of Proposed Rulemaking* ("NPRM"), CC Docket No. 99-273, CC Docket No. 92-105, CC Docket No. 92-237, Jan. 9, 2002 (rel), ¶ 31. See also Bell Atlantic Comments at 3-4.

Additional costs include expensive and complicated balloting, increased regulatory oversight by this Commission and state commissions to protect consumers from new cramming and slamming opportunities and to ensure compliance with service and quality standards. Presubscription would require costly and complex inter-carrier billing arrangements, since few customers would generate sufficient call volumes to justify separate bills.

Who would pay these additional costs? Inevitably, carriers would pass the costs on to consumers through higher rates or, more likely, line item fees on the phone bill, as is the case with local number portability. But since 80 percent of consumers make three or fewer DA calls per month, these higher rates or new fees would provide no benefit to the overwhelming majority of consumers. Five percent of customers account for 80 percent of DA usage.³

DA presubscription would impose other harms on consumers, including new cramming and slamming opportunities, consumer lock-in to one provider, and more telemarketing at the dinner hour. How would states ensure that current regulations requiring a minimum number of free DA calls, free services to disabled, free payphone DA access, and other service standards apply equally to all DA carriers, and how would states enforce these regulations?

³ SBC, BellSouth, Verizon, Qwest Ex Parte, Oct. 31, 2001.

B. The U.S. Directory Assistance Market is Already Highly Competitive

The Commission seeks comment on the extent of competition in the DA market.⁴ As the Commission acknowledged more than two and one-half years ago in the *UNE Remand Order*, there is substantial competition in the DA market.⁵ In the *UNE Remand Order*, the Commission noted that “a variety of alternative providers of OS/DA offer services at comparable cost and quality to those of the incumbents” and that “the incumbents enjoy no material advantage obtaining key inputs for OS/DA services.”⁶ The Commission concluded, “the increasing availability of competitive OS/DA providers coincides with a decrease in incumbent LEC OS/DA call volumes.”⁷ In the *Reverse Directory Order*, the Commission authorized SBC and Qwest to provide reverse DA services on an integrated basis, noting, “other companies are already providing similar services.”⁸

Consumers can get telephone listings and other information from a wide variety of sources, including incumbent carriers, competitive local exchange carriers, long distance companies, wireless carriers, over the Internet, or from directory listings or CD-ROMs. According to the Frost & Sullivan market research firm, the local DA market is expected to decline by 2.4

⁴ NPRM, ¶¶17-20.

⁵ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking* (“UNE Remand Order”), Nov. 5, 1999 (rel), ¶ 446-449.

⁶ *Id.*, ¶446.

⁷ *Id.*, ¶449.

⁸ In the Matters of Petition of Nevada Bell, Pacific Bell, Southwestern Bell Telephone Company, Southern New England Telephone, and the Ameritech Michigan Bell, Ohio Bell, Illinois Bell, Indiana Bell, and Wisconsin Bell Telephone Companies to Provide Operator-Assisted Reverse Directory Assistance Services and Electronic Reverse Directory Assistance Services and for Waivers of and/or Forbearance from Any Comparably Efficient Interconnection or Telecommunications Act of 1996 Requirements; Petition of Qwest Corporation To Provide Operator-Assisted Reverse Directory Assistance Service and for Waiver of Any Comparably Efficient

percent, while the wireless DA market will grow by 13.3 percent, and the Internet DA market will grow by 32.9 percent.⁹

The incumbent Bell companies report a 50 percent reduction in 411 call volumes since 1996.¹⁰ CWA represents the overwhelming majority of DA operators at the Bell companies. According to CWA records, the number of CWA-represented operators employed by the Bell companies has declined by two-thirds since the mid-1990s. The steepest cuts took place after AT&T pulled its contract with the Bell companies and began to offer its own AT&T-branded 00-Info DA service. But operator services employment continues to decline at the Bell companies, declining by one-third in the past 17 months.¹¹

Over the same period that DA call volumes and operator services' employment at the incumbent Bell companies plummeted, competitive DA providers have reported explosive growth in call volumes, revenues, and employment.

- **MetroOne** provides DA services to wireless carriers, including AT&T Wireless, Cingular, Sprint PCS, ALLTEL, Nextel, and other carriers. In 2001, MetroOne handled 472 million DA requests, up 56 percent from the prior year. MetroOne's pre-tax profits increased 251 percent in 2001. MetroOne employs 6,000 operators serving the U.S. market.¹²

Interconnection Requirements Deemed Applicable, *Memorandum Opinion and Order* ("Reverse Directory Order"), CC Docket No. 00-227, CC. Docket No. 01-126; Nov. 1, 2001 (rel), ¶11.

⁹ BellSouth, SBC, Verizon, Qwest Ex Parte, Oct. 31, 2001.

¹⁰ BellSouth, SBC, Verizon, Qwest Ex Parte, Sept. 21, 2001.

¹¹ CWA records are based on information provided to the Union by the Bell companies. We estimate that 80-85 percent of Bell company operators provide directory assistance, with the remainder providing call completion and other services.

¹² "Metro One Generates Record Revenue and Earnings for Fourth Quarter and 2001 Year," Feb. 7, 2002 (available at <http://www.metroone.com>).

- **INFONXX** provides DA services to wireless and wireline carriers, including Verizon Wireless, AT&T Wireless, ALLTEL, U.S. Cellular, and other carriers. INFONXX reports that it handles about 200 million listing requests annually, an increase of 100 percent over the prior year, and has increased revenues by 818 percent over the past five years.¹³
- **Excell Agent Services**, a privately held company, provides DA services to wireline and wireless carriers including AT&T's 00-Info. Excell reports that it handled 500 million DA requests in 2001 and has 2,300 employees.¹⁴

The same market forces that have created a competitive DA market in the U.S. have eluded the German firm Telegate whose petition prompted this rulemaking. According to Telegate's 2001 annual report, Telegate decided to discontinue its U.S. operations last year and plans to sell its U.S. operations during 2002.¹⁵ Worldwide, Telegate experienced a \$21.2 million operating loss in 2001, having experienced a decline in call volumes in Germany, its dominant market. Despite Telegate's claim that retail DA competition is thriving in Germany¹⁶, Telegate's 2001 financial results raise questions about its business model and financial viability. The Commission should not adopt a radical restructuring of the DA market to serve the business needs of one firm, a firm that has already announced its intent to sell its U.S. operations.

B. DA Competition is Driving Innovation in DA Services

Telegate claims that retail DA competition in Germany has benefited consumers with new and

¹³ INFONXX Company Backgrounder (available at <http://www.infonxx.com>).

¹⁴ PR Newswire, Oct. 23, 2001. Dun & Bradstreet custom report, Jan. 2, 2002.

¹⁵ "During 2001, the Company decided to focus on its core markets, and thus exit the operations in the United States... The U.S. operations are planned to be sold during 2002." Telegate 2001 Annual Report, 46-47 (available at http://www.telegate.de/english/ir/download/telegate_report2001year_english.pdf)

innovative services, such as call completion and bilingual services.¹⁷ But the U.S. market differs in significant ways from the German market. In the U.S., local exchange and long distance carriers offer call completion, bilingual services, national DA, and reverse DA. Wireless and Internet providers, unconstrained by regulation, offer movie listings and show times, restaurant listings and reviews, traffic reports and real time directions. CWA has long encouraged our wireline employers in the long distance industry and, where permitted by regulation, in the local exchange industry, to use the talents of our operator services members to generate new business for their employers and new services to consumers by providing these and other information services.

In summary, Telegate's 411 DA presubscription is a proposal in search of a problem. The U.S. DA market is already competitive, driving innovation and new services as carriers compete for business. Because DA use is concentrated among five percent of the population, the costs far outweigh the benefits.

¹⁶ NPRM, ¶16.

¹⁷ *Id.*

II. There is No Legal Basis for DA Presubscription.

Directory assistance is traditionally an intrastate service subject to regulation by state commissions. States have jurisdiction over directory assistance pricing, service quality, speed-of-answer, number of free DA calls per month, or, in the case of people with disabilities, free DA service.¹⁸ Any mandate by this Commission of DA presubscription would raise complicated jurisdictional and regulatory issues.

The Telecommunications Act of 1996 (“1996 Act”) does not provide the Commission with the legal basis to require 411-DA presubscription. Section 251(b)(3) imposes on telecommunications carriers the duty to provide, among other things, dialing parity to competing “providers of telephone exchange service and telephone toll service” so they can access on a nondiscriminatory basis directory assistance.¹⁹ DA providers such as Telegate are neither providers of local exchange nor of toll service. The purpose of section 251(b)(3) is to ensure that customers who use different telecommunications carriers to obtain telecommunications services are not disadvantaged by having to dial access codes for DA (and other identified services). In drafting section 251(b)(3), Congress established conditions that would allow *telecommunications carriers*, not individual consumers, nondiscriminatory access to directory assistance. DA is not a “telecommunications service” as defined by the Act. Thus the Commission lacks the legal authority under section 251(b)(3) concerning access to DA services.

¹⁸ NPRM, ¶55.

The Commission's numbering authority under section 251(d)(1) of the Act does not authorize the Commission to require carriers to provide 411 access nor to regulate how they provide it. It simply authorizes the Commission to dedicate the 411 number to directory assistance.

III. The Commission Should Not Eliminate 411 Directory Assistance Dialing

The Commission should not consider other arrangements in the notice, such as the elimination of 411 dialing.²⁰ The Commission has concluded that the 411 directory assistance dialing code is “justified by public convenience and necessity” because it is “short, easy-to-recall” and uniform across the nation.²¹

Because most users of directory assistance services are infrequent users, elimination of the 411 access code would cause confusion, particularly for children, elderly and disabled consumers. Elimination would raise many of the same problems for consumers as presubscription: it would be costly to implement; likely require expensive and confusing balloting; open new opportunities for cramming and slamming; raise jurisdictional problems for state commissions to ensure that consumers have a minimum number of free calls, and, for disabled consumers, unlimited free calls and that service standards are met; and create confusion at pay phones.

Other alternatives proposed in the Notice, including designation of national 555 numbers or 411XXX numbers pose similar problems.

¹⁹ 47 U.S.C. §§ 251(b)(3).

²⁰ NPRM, ¶45.

²¹ Use of N11 Codes and Other Abbreviated Dialing Arrangements, 12FCC Rcd 5572 ¶47 (1997).

IV. Conclusion

The Commission should reject the Telegate presubscription proposal as costly, with no consumer benefit. Market forces are driving competition and innovation in the DA market. The Telegate proposal is a radical and risky scheme that has not been tried anywhere else in the world. It would likely accelerate problems in DA service quality as carriers compete on cost not quality, replacing career professional operators with low-wage, high turnover employees.

Respectfully Submitted,

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